

OBJECTIONS

The drawings were objected to because Figs. 1A, 1B, 3, 4, 5 and 6 were not labeled as prior art. New drawings are being submitted concurrently herewith.

Claims 1-6 were indicated to be allowable over the prior art of record upon overcoming the double patenting rejections.

THE REFERENCE

Application Serial No. 07/174,246 was filed March 18, 1988, and matured into U.S. Patent No. 5,102,417, issued April 7, 1992.

TELEPHONE INTERVIEW

The undersigned attorney thanks Examiner Prebilic for the courtesies extended during a telephone interview on June 15, 1992, at which time the rejections of record were discussed. No agreement was reached.

REMARKS

With respect to the provisional rejection for obviousness-type double patenting, Applicant has enclosed a Terminal Disclaimer, disclaiming the terminal part of any patent granted on Application Serial No. 07/253,115, which is the parent of the above-captioned application, which would extend beyond the expiration date of any patent issuing on copending Application Serial No. 07/174,246, which is now U.S. Patent No. 5,102,417.

Accordingly, Applicant submits that the obviousness-type double patenting rejection has been overcome. It should be noted that the filing of the Terminal Disclaimer "simply

serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection. It is improper to convert this simple expedient of 'obviation' into an admission or acquiescence or estoppel on the merits." Quad Environmental Technologies v. Union Sanitary District, 20 USPQ 2d 1392, 1394 (C.A.F.C. 1991). "It is not an admission of obviousness of the later-filed claimed invention in light of the earlier-filed disclosure, for that is not the basis of the disclaimer." Quad at 1394.

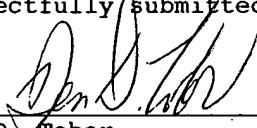
With respect to the rejection of claims 1-6 under the provisions of 35 U.S.C. § 103 "as being obvious over copending Application Serial No. 07/174,246", Applicant submits that this rejection should be withdrawn for the following reasons. Independent claims 1 and 4 each include the structural limitation that the connector member is "disposed in a substantially parallel relationship with respect to the longitudinal axis of the tubular members and coplanar with each tubular member." Such structure is not taught, suggested, nor disclosed in Application Serial No. 97/174,245, now U.S. Patent No. 5,102,417. The '417 Patent teaches and discloses the use of connector members which are disposed "in a non-parallel relationship with respect to the longitudinal axis of adjacent grafts, or prosthesis, 70." Col. 12, ll. 8-10. "Further, it is preferable that at least one connector member 100 is formed as a thin-walled spiral member 102." Col. 12, ll. 10-13.

Accordingly, Applicant's independent claims 1 and 4 are specifically limited to a connector member having a particular spatial relationship with respect to the longitudinal axis of the tubular members, and that particular

spatial relationship is not disclosed, taught, nor suggested by the '417 Patent. Applicant submits it would not have been obvious to modify the structure of the '417 patent so as to render obvious the claimed subject matter of claims 1 and 4 of the present application. Further, the claimed spatial relationship of the connector member, in the present application, is patentably distinct from the connector members of the '417 Patent.

In view of the foregoing remarks, and the Terminal Disclaimer filed concurrently herewith, Applicant respectfully requests the withdrawal of all the rejections of record, and that all the claims of this application be allowed.

Respectfully submitted,


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